

Court of Appeals, State of Michigan

ORDER

People of MI v Michael Podlaszuk

Docket No. 273554

LC No. 05-002344

Brian K. Zahra
Presiding Judge

Helene N. White

Kurtis T. Wilder
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's September 18, 2006 order granting defendant's motion to withdraw his guilty plea is REVERSED. Because defendant moved to withdraw his guilty plea more than six months after sentencing, he was only entitled to relief as provided in subchapter 6.500 of the court rules. See MCR 6.310(C). In granting relief from judgment, the trial court found that, although defendant was advised of his rights before entering his plea, he was never specifically asked whether he wished to waive those rights. However, strict adherence to the requirements of MCR 6.302 is not required. *People v Saffold*, 465 Mich 268, 272-273; 631 NW2d 320 (2001). Instead, our Supreme Court has "adopted a doctrine of substantial compliance." *Id.* In this case, prior to offering his plea on the record, defendant executed a written guilty plea form. Then, on the record, the trial court informed defendant that defendant would be waiving his rights by entering a guilty plea, and defendant went on to offer a factual basis for his plea. Under the circumstances, it is reasonable to conclude that defendant understood he was waiving his rights. The plea taking process substantially complied with MCR 6.302 such that relief is not warranted, and in terms of MCR 6.508(D)(3)(b)(ii), any defect in the proceedings was not such that it rendered "the plea an involuntary one to a degree that it would be manifestly unjust to allow the conviction to stand." As a result, the trial court abused its discretion in granting defendant's motion to withdraw his plea.

This case is REMANDED to the trial court for further proceedings consistent with this order. We do not retain jurisdiction. This order shall have immediate effect. MCR 7.215(F)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 03 2007

Date

Sandra Schultz Mengel
Chief Clerk